

REMARKS

Claims 1-29 and 114 are currently pending in this application. Claims 1-14, 17-21, and 114 are currently under consideration as claims 15, 16, and 22-29 have been withdrawn from consideration.

Response to Claim Rejections under 35 U.S.C. §102(b)

Claim 1

Claim 1 is directed to an absorbent article comprising:
a stretchable substrate; and
an absorbent composite comprising a layer of adhesive composition in contact with the stretchable substrate and a layer of particulate superabsorbent material applied to and held by the adhesive composition, the absorbent composite being secured to the substrate by the adhesive composition, the absorbent article being stretchable, the layer of particulate superabsorbent material remaining secured to the substrate by said adhesive upon stretching of the absorbent article.

Claim 1 is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 5,496,429 (Hasse et al.), in that whether considered alone or in combination, the references fail to show or suggest an absorbent article having 1) a stretchable substrate and 2) an absorbent composite comprising a layer of adhesive composition in contact with the stretchable substrate and a layer of particulate superabsorbent material applied to and held by an adhesive composition.

As shown in Figs. 10 and 11, Hasse et al. discloses an absorbent article having a chassis 14 and an absorbent assembly 22, which is formed separate from and attached to the chassis. The chassis 14 comprises an outer layer 48 and elastic ear flap

members 90 secured inward of longitudinal side regions 88 of the outer layer. The absorbent assembly 22 comprises a topsheet 24, a backsheet 26 (characterized in the Office action as the recited substrate), and an absorbent core 28 (characterized in the Office action as the recited absorbent composite) sandwiched between the topsheet and the backsheet.

Hasse et al. fail to teach or suggest a stretchable substrate as recited in claim 1.

Nowhere do Hasse et al. disclose that the backsheet (26) disclosed therein is stretchable. Rather, Hasse et al. disclose that the backsheet can be formed from thermoplastic films of polyethylene or polypropylene. The Office asserts that polyethylene and polypropylene films are "elastomeric materials and are thus stretchable." See page 2 of the Office action. However, polyethylene and polypropylene films are not necessarily elastomeric or even stretchable. For example, see col. 16, lines 64 and 65 of U.S. Patent No. 6,521,085, which discloses a nonstretchable bag that can be made of polyethylene or polypropylene. See also col. 3, lines 32-34 of U.S. Patent No. 6,315,748, which discloses a nonstretchable polyethylene film. In the passage cited by the Office (col. 20, lines 56-59), Hasse et al. teach that the backsheet is preferably manufactured from a polyethylene or polypropylene film. But at lines 48-53 Hesse et al. explain that this is to render the film flexible, which is not the same as stretchable. Thus, the Office's assumption that the backsheet disclosed by Hasse et al. must be stretchable merely because it can be formed from polyethylene or polypropylene is unfounded and cannot be maintained.

Moreover, Hasse et al. implicitly imply that the backsheet disclosed therein is nonstretchable. Particularly, Hasse et al. add that the elasticized leg cuffs (32) are free from the backsheet so that the backsheet does not inhibit the leg cuffs. See column 21, lines 1-8. In other words, the backsheet of Hasse et al. is prevented from contacting the elasticized leg cuffs because the backsheet would inhibit the leg cuffs from stretching. Thus, not only do Hasse et al. fail to teach or suggest that the backsheet is stretchable but they also infer that the backsheet is not stretchable. In the event that the Office maintains its position, applicants respectfully request evidence from the Examiner to support its assertion that polypropylene and polyethylene films are necessarily elastomeric.

Accordingly, Hasse et al. fail to teach or suggest a stretchable substrate as recited in claim 1.

Hasse et al. fail to teach or suggest a layer of particulate superabsorbent material applied to and held by an adhesive composition as recited in claim 1.

Hasse et al. also fail to disclose that the adhesive securing the absorbent core to the backsheet has a layer of particulate superabsorbent material applied to it as recited in claim 1. As noted by the Office, Hasse et al. at column 20, lines 20-25 discloses that the backsheet (26) can be adhesively secured to the absorbent core and it is recognized that the absorbent core of Hasse et al. can include superabsorbent polymers (see column 19, line 26) or absorbent gelling material as one of its components. However, nowhere do Hasse et al. disclose that absorbent core can be formed using only superabsorbent polymers or absorbent gelling material, or that

the superabsorbent polymers are adhered by adhesive to the backsheet. Rather, superabsorbent polymers and absorbent gelling material are most often used in absorbent cores in combination with other absorbent materials (e.g., wood pulp, cellulose wadding, coform) that are also disclosed in Hasse et al. In fact, Hasse et al. states that the "absorbent core 28 is preferably a batt of airfelt and particles of absorbent gelling material." See column 19, lines 65-67. Often, superabsorbent polymers and absorbent gelling material are dispersed throughout the airfelt and not arranged in a layer. For example, see paragraph [0004] of applicants' specification. For other examples, see U.S. Patent Nos. 4,610,678; 4,673,402; 4,834,735; and 4,888,231, which are disclosed by Hasse et al. as disclosing exemplary absorbent structures that could be used as the absorbent core. See column 19, lines 50-65. Each of these patents discloses an absorbent core having a fibrous web with discrete hydrogel particles dispersed therein. Adhering a fibrous web having discrete hydrogel particles, superabsorbent polymers and/or absorbent gelling material dispersed therein to a backsheet does not anticipate claim 1. The particles dispersed in the web are not in a layer nor are they applied to and held by the backsheet.

The Office has taken the position that if superabsorbent gelling material is the only material used to form the absorbent core of Hass et al., then Hasse et al. would necessarily teach that the superabsorbent gelling material is adhered in a layer to the substrate. See pages 2 and 3 of the Office action. However, nowhere do Hasse et al. teach or suggest that the superabsorbent gelling materials disclosed therein are used alone to form the absorbent core as opined by the Office. Rather, Hasse et al.'s disclosure, when taken as a

whole, merely describes various conventional absorbent cores that may include superabsorbent gelling materials along with other materials (e.g., airfelt). See col. 19 and 20 of Hasse et al.

As a result, Hasse et al. fail to teach or suggest a layer of particulate superabsorbent material being applied to and held by an adhesive composition as recited in claim 1.

For these reasons, claim 1 is submitted to be unanticipated by and patentable over Hasse et al. Claims 2-29 and 114 depend directly or indirectly from claim 1 and are submitted to be patentable over Hasse et al. for the same reasons as claim 1.

Claim 19

Claim 19 depends from claim 1 and recites that the stretchable substrate is elastic. As asserted above with respect to claim 1, Hasse et al. do not disclose a stretchable substrate and therefore cannot disclose an elastic substrate. The passage of Hasse et al. relied on by the Office (i.e., column 20, lines 48-53) discloses that the backsheet may be formed from thermoplastic films of polyethylene or polypropylene. These films, as set forth above, are not necessarily stretchable and therefore are not necessarily elastic. Elastic means that upon application of an elongating force, a material (or substrate) is elongatable (i.e., stretchable) in at least one direction and retracts to dimensions close to its original dimensions (e.g., within at least about 25 percent) upon removal of the elongating force. See page 17, paragraph [0056] of the present specification. Thus, Hasse et al. fail teach or suggest that the backsheet

disclosed therein is elastic.

Accordingly, Hasse et al. fail to teach or suggest an elastic substrate as recited in claim 19. As a result, claim 19 is submitted to be further patentable over Hasse et al.

Claim 21

Claim 21 depends from claim 1 and recites, in part, that the absorbent article further comprises a second layer of particulate superabsorbent material being applied to and held by a second layer of adhesive composition. Since Hasse et al. fail altogether to disclose or suggest a layer of particulate superabsorbent material applied to and held by a layer of adhesive composition (as explained in detail with respect to claim 1), Hasse et al. must fail to disclose or suggest a second layer of particulate superabsorbent material being applied to and held by the second layer of adhesive composition.

The Office has taken the position that since Hasse et al. teach that the absorbent core can be more than one layer (col. 19, line 33) and that the absorbent core can include absorbent gelling material and superabsorbent polymers as one or more of its components (col. 19, lines 26 and 27), then Hasse et al. teach "a first layer of superabsorbent particulate and a second layer of SAP particulate, wherein the second layer of SAP particulate is applied to and held by a second uniform layer of adhesive." See pages 3 and 4 of the Office action. Clearly such a position is beyond the teachings of Hasse et al.

Nowhere do Hasse et al. disclose that the superabsorbent polymers and absorbent gelling materials that can be used in the absorbent core are applied to the backsheet in layers using first and second layers of adhesive. Moreover, claim 21

specifically recites that the article comprises a second layer of adhesive composition. Nowhere does Hasse et al. teach or even contemplate using a second layer of adhesive composition to adhere the absorbent core to the backsheet. See col. 20, lines 23-26 of Hasse et al.

Thus, claim 21 is submitted to be further patentable over Hasse et al.

CONCLUSION

In view of the foregoing, favorable consideration and allowance of claims 1-29 and 114 is respectfully requested.

Appellants do not believe that any fee is due. However, the Commissioner is hereby authorized to charge any deficiency or overpayment of any fees to Deposit Account No. 12-384.

Respectfully submitted,

/Richard L. Bridge/

Richard L. Bridge, Reg. No. 40,529
Armstrong Teasdale, LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102
(314) 621-5070

RLB/PEB/tmg

Via EFS